

DW 01-054

West Epping Water Company

Investigation Into Status of Franchise

**Order to Show Cause Why Franchise Should Not be Revoked
and Fines Imposed**

O R D E R N O. 24,016

July 24, 2002

The New Hampshire Public Utilities Commission (Commission) entered Order No. 23,909 in this docket on January 29, 2002, resolving after hearing matters related to an investigation conducted by the Commission of West Epping Water Company (WEWC). Order No. 23,909 approved a proposal by WEWC whereby the utility, which provides water service to approximately 11 customers in the Town of Epping, would transfer its franchise, system and works to a users' association. See Order No. 23,909, slip op. at 41. Upon such transfer, WEWC would cease to be a regulated utility and the users' association would be exempt from Commission regulation. See id. At 40.

Order No. 23,909 contained a number of specific conditions to the transfer, and directed WEWC to work with the Commission's General Counsel or his designee to effect the transfer in a manner consistent with the Order within 90 days.

This had the effect of imposing a deadline on WEWC that passed in late April.

To date, WEWC has not accomplished the transfer as directed in Order No. 23,909. Through counsel, WEWC has advised the Commission that one of its principals, Richard Fisher, has purchased property within WEWC's service territory and, thus, is now a customer of the utility and a putative member of the users' association. Mr. Fisher's continued participation in the affairs of the water system was a matter of serious contention at the hearing and his non-involvement in the users' association was a condition of the transfer approved in Order No. 23,909. WEWC has also advised that at least two WEWC customers have opted to obtain water service by digging wells on their own property, thus placing in question their intent to participate in the users' association.

In light of the foregoing, particularly WEWC's failure to accomplish the tasks set out for it in Order No. 23,909 nearly three months after the specified deadline, the evidence suggests that WEWC is either unwilling or unable to comply with the directives contained in the Order. Accordingly, we direct WEWC to appear before the Commission on September 19, 2002 to show cause why its franchise should not be terminated, see RSA 374:28 (authorizing such termination, after notice and hearing), why WEWC and its principals should not be adjudged to be in violation of RSA 365:40 (requiring

every public utility and its officers and agents to "comply with every order made by the commission") and why WEWC and its principals should not be assessed penalties pursuant to RSA 365:41 and RSA 365:42.

Based upon the foregoing, it is hereby

ORDERED, that WEWC shall appear at hearing on September 19, 2002 to show cause why its franchise should not be revoked, and both the company and its principals subject to fines, as enumerated above.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary